

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

CASE NO.: 8:20-cv-03075-KKM-AEP

IN RE:

PETITION OF JOHN WALLACE
AND BEVERLY WALLACE, as titled
owners of and for the “ISLAND DIVA II”,
a 2001 41’ CARVER, hull identification
number CDRV8134G001, her engines, tackle,
and appurtenances, for Exoneration
from or Limitation of Liability

Petitioners.

ORDER

Before the Court is Petitioners’ Motion for Entry of Final Default Judgment for Exoneration from Liability Against All Claimants Not Filing a Claim in This Action. (Doc. 24). Petitioners seek entry of a final default judgment of exoneration from liability against all persons and entities, other than claimant Jack Graham Enterprises d/b/a Marina Jack’s, who have not filed claims upon the Petitioner for Exoneration (Doc. 1) after due and proper notice. (Doc. 24). Because the required notice has been given and the time for filing a claim or answer has expired, Petitioners’ Motion is granted.

This is a statutory proceeding brought in admiralty pursuant by Petitioners John and Beverly Wallace as owners of a 2001 41’ Carver, bearing hull identification number CDRV813G001, her engines, tackle, and appurtenances (the “Vessel”). The Petitioners

are claiming the right to exoneration or limitation of liability under the Shipowners Limitation Liability Act from all claims arising out of an incident involving the Vessel in the navigable waters of the United States near Sarasota, Sarasota County, Florida, in October 2020. (Doc. 1); *see* 46 U.S.C. § 30501 *et seq.*

After initiating this action, Plaintiffs submitted an Ad Interim Stipulation of Value and Stipulation for Costs (Doc. 3) and a Motion for Entry of Order Approving Petitioners' Ad Interim Stipulation and Directing Issuance of Monition and Injunction pursuant to Supplemental Rule F of the Federal Rules of Civil Procedure.¹ (Doc. 6). The Court granted Petitioners' requests and ordered that a monition issue advising and admonishing all persons asserting claims for any and all losses, damages, injuries, deaths, or destruction allegedly as a result of the occurrences and happenings recited in the Petition, to file their respective claims with the Clerk and serve upon or mail the attorneys for Petitioners copies thereof on or before February 17, 2021, or be defaulted. (Doc. 8). Furthermore, the Court directed that any claimant who wanted to contest Petitioners' right to exoneration should file and serve an answer to the Petition on or before February 17, 2021, unless his claim has included an answer to the Petition so designated, or be defaulted. (Doc. 8). Only Claimant Marina Jack's filed a claim and an

¹ Supplemental Rule F provides that, upon filing a complaint and security, a petitioner must provide notice to all persons asserting claims with respect to which the complaint seeks limitation by publishing in a newspaper for four successive weeks and mailing a copy of the notice to all known claimants. Claimants must file their claims on or before the date specified in that notice. Fed. R. Civ. P. Supp. F(4)–(5).

answer. (Doc. 17). On March 1, 2021, the Clerk entered default as to the parties other than Marina Jack's. (Docs. 21–23).

Petitioners have fulfilled their obligations under Supplemental Rule F by publishing notice once a week for four weeks and notifying persons who have made claims. The time for filing any other claims against the Petitioners has expired. An entry of final default judgment is warranted where claimants have not filed a claim or answer by the deadline mandated by the Court. *See In re: Ruth*, No. :15-cv-2895-T-23TBM, 2016 WL 4708021 (M.D. Fla. Aug. 23, 2016), *report and recommendation adopted In re 37' 2000 Intrepid Powerboat*, 2016 WL 4667385 (M.D. Fla. Sept. 7, 2016). Because no parties, other than Marina Jack's, have filed claims, Petitioners are entitled to a final default judgment against all claimants that failed to file a claim by the Court's February 17, 2021 deadline. *See Matter of Henningburg*, No. 1:19-00341-KD-N, 2019 WL 5431319, at *3 (M.D. Ala. Oct. 22, 2019) (granting a motion for default judgment against all non-filing parties in a Rule F proceeding).

Accordingly, the following is **ORDERED**:

1. Petitioners' Motion for Entry of Final Default Judgment for Exoneration from Liability Against All Claimants Not Filing a Claim in This Action (Doc. 24) is **GRANTED**.
2. The Clerk is direct to enter a final default judgment against all potential claimants that failed to file a claim.

ORDERED in Tampa, Florida, on May 20, 2021.



Kathryn Kimball Mizelle
United States District Judge